

# 1979

## CHAPTER S-24.1

### An Act respecting the Saskatchewan Code of Human Rights and its Administration.

[Assented to May 4, 1979.]

**H**ER Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

#### SHORT TITLE.

**1.** This Act may be cited as *The Saskatchewan Human Rights Code*.

#### INTERPRETATION.

- 2. In this Act:**
  - (a) "age" means any age of eighteen years or more but less than sixty-five years;
  - (b) "commercial unit" means any building or other structure or part thereof that is used or occupied, or that is intended, arranged or designed to be used or occupied, for the manufacture, sale, resale, processing, reprocessing, displaying, storing, handling, garaging or distribution of personal property or any space, in any such building, structure or part thereof, that is used or occupied, or that is intended, arranged or designed to be used or occupied, as a separate business, professional unit or office;
  - (c) "commission" means the Saskatchewan Human Rights Commission;
  - (d) "creed" means religious creed;
  - (e) "employee" means a person employed by an employer but does not include an employee employed in a private home or living in the home of his employer;
  - (f) "employer" means a person employing one or more employees and includes a person acting on behalf of an employer, but does not include an exclusively charitable,

philanthropic, fraternal, religious or social organization or corporation that is not operated for private profit or an organization that is operated primarily to foster the welfare of a religious or racial group and that is not operated for private profit;

**"employers' organization"**

(g) "employers' organization" means an organization of employers formed for the purpose of regulating relations between employers and employees or for purposes that include the regulation of relations between employers and employees;

**"employment agency"**

(h) "employment agency" includes a person who undertakes, with or without compensation, to procure employees for employers and a person who undertakes, with or without compensation, to procure employment for persons;

**"housing accommodation"**

(i) "housing accommodation" means any place of dwelling and includes any place where other services are provided in addition to accommodation, but does not include a place of dwelling that is part of a building in which the owner or his family resides and where the occupant of the place of dwelling is required to share a bathroom or kitchen facility with the owner or his family;

**"minister"**

(j) "minister" means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

**"occupational association"**

(k) "occupational association" means any organization, whether incorporated or otherwise, in which membership is a prerequisite to carrying on any trade, occupation or profession, but does not include a trade union or employers' organization;

**"offer"**

(l) "offer" includes an invitation to treat;

**"person"**

(m) "person", in addition to the extended meaning contained in *The Interpretation Act*, includes an employment agency, employers' organization, occupational association or trade union;

**"physical disability"**

(n) "physical disability" means any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes epilepsy, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impairment, deafness or hearing impairment, muteness or speech impediment, or physical reliance on a guide dog or on a wheelchair or other remedial appliance or device;

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"sex"

(o) "sex" means gender, and, unless otherwise provided in this Act, discrimination on the basis of pregnancy or pregnancy-related illnesses is deemed to be discrimination on the basis of sex;

"trade  
union"

(p) "trade union" means an organization of employees formed for the purpose of regulating relations between employees and employers or for purposes that include the regulation of relations between employees and employers.

## OBJECTS.

Objects

## 3. The objects of this Act are:

(a) to promote recognition of the inherent dignity and the equal inalienable rights of all members of the human family; and

(b) to further public policy in Saskatchewan that every person is free and equal in dignity and rights and to discourage and eliminate discrimination.

## PART I.

## BILL OF RIGHTS.

Right to  
freedom of  
conscience

4. Every person and every class of persons shall enjoy the right to freedom of conscience, opinion and belief and freedom of religious association, teaching, practice and worship.

Right to free  
expression

5. Every person and every class of persons shall, under the law, enjoy the right to freedom of expression through all means of communication, including, without limiting the generality of the foregoing, the arts, speech, the press or radio, television or any other broadcasting device.

Right to free  
association

6. Every person and every class of persons shall enjoy the right to peaceable assembly with others and to form with others associations of any character under the law.

Right to  
freedom  
from  
arbitrary  
imprison-  
ment

7. Every person and every class of persons shall enjoy the right to freedom from arbitrary arrest or detention, and every person who is arrested or detained shall enjoy the right to an immediate judicial determination of the legality of his detention and to notice of the charges on which he is detained.

Right to elec-  
tions

8. Every qualified voter resident in Saskatchewan shall enjoy the right to exercise freely his franchise in all elections and shall possess

the right to require that no Legislative Assembly shall continue for a period in excess of five years.

## PART II.

### PROHIBITION OF CERTAIN DISCRIMINATORY PRACTICES.

**Right to engage in occupations**

**9.** Every person and every class of persons shall enjoy the right to engage in and carry on any occupation, business or enterprise under the law without discrimination because of his or their race, creed, religion, colour, sex, marital status, physical disability, nationality, ancestry or place of origin.

**Discrimination in the purchase of property prohibited**

**10.—(1)** No person shall:

- (a) deny to any person or class of persons the opportunity to purchase any commercial unit or any place of dwelling that is advertised or in any way represented as being available for sale;
- (b) deny to any person or class of persons the opportunity to purchase or otherwise acquire land or an interest in land; or
- (c) discriminate against any person or class of persons with respect to any term or condition of the purchase or other acquisition of any commercial unit or any place of dwelling, land or any interest in land;

because of the race, creed, religion, colour, sex, marital status, physical disability, age, nationality, ancestry or place of origin of that person or class of persons.

(2) Nothing in subsection (1) prohibits discrimination on the basis of age, where such discrimination is permitted or required by any law or regulation in force in the province.

**Discrimination in occupancy of commercial unit or housing accommodation is prohibited**

**11.—(1)** No person, directly or indirectly, alone or with another, by himself or by the interposition of another, shall:

- (a) deny to any person or class of persons occupancy of any commercial unit or any housing accommodation; or
- (b) discriminate against any person or class of persons with respect to any term or condition of occupancy of any commercial unit or any housing accommodation;

because of the race, creed, religion, colour, sex, marital status, physical disability, nationality, ancestry or place of origin of that person or class of persons or of any other person or class of persons.

(2) Subsection (1) does not apply to discrimination on the basis of the sex of a person with respect to housing accommodation,

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where the occupancy of all the housing accommodation in a building, except that of the owner or his family, is restricted to individuals who are of the same sex.

(3) Subsection (1) does not apply to discrimination on the basis of the sex of a person with respect to the renting or leasing of any dwelling unit in any housing accommodation that is composed of not more than two dwelling units, where the owner of the housing accommodation or his family resides in one of the two dwelling units.

Discrimination prohibited in places to which public admitted

**12. —(1)** No person, directly or indirectly, alone or with another, by himself or by the interposition of another, shall:

(a) deny to any person or class of persons the accommodation, services or facilities to which the public is customarily admitted or which are offered to the public; or

(b) discriminate against any person or class of persons with respect to the accommodation, services or facilities to which the public is customarily admitted or which are offered to the public;

because of the race, creed, religion, colour, sex, marital status, physical disability, age, nationality, ancestry or place of origin of that person or class of persons or of any other person or class of persons.

(2) Subsection (1) does not apply to prevent the barring of any person because of his sex from any accommodation, services or facilities upon the ground of public decency.

(3) Subsection (1) does not apply to prevent the denial or refusal of any accommodation, services or facilities to a person on the basis of age, if the accommodation, services or facilities are not available to that person by virtue of any law or regulation in force in the province.

Right to education

**13. —(1)** Every person and every class of persons shall enjoy the right to education in any school, college, university or other institution or place of learning, vocational training or apprenticeship without discrimination because of his or their race, creed, religion, colour, sex, marital status, physical disability, nationality, ancestry or place of origin.

(2) Nothing in subsection (1) prevents a school, college, university or other institution or place of learning from following a restrictive policy with respect to enrolment on the basis of sex, creed, religion or physical disability, where it enrolls persons of a particular sex, creed or religion exclusively, or is conducted by a religious order or society, or where it enrolls persons who are physically disabled.

Prohibitions  
against pub-  
lications

**14.**—(1) No person shall publish or display, or cause or permit to be published or displayed, on any lands or premises or in a newspaper, through a television or radio broadcasting station or any other broadcasting device or in any printed matter or publication or by means of any other medium that he owns, controls, distributes or sells, any notice, sign, symbol, emblem or other representation tending or likely to tend to deprive, abridge or otherwise restrict the enjoyment by any person or class of persons of any right to which he is or they are entitled under the law, or which exposes, or tends to expose, to hatred, ridicules, belittles, or otherwise affronts the dignity of, any person, any class of persons or a group of persons because of his or their race, creed, religion, colour, sex, marital status, physical disability, age, nationality, ancestry or place of origin.

(2) Nothing in subsection (1) restricts the right to freedom of speech under the law upon any subject.

Discrimina-  
tion  
prohibited in  
contracts

**15.**—(1) No person shall, in making available to any person a contract that is offered to the public:

- (a) discriminate against any person or class of persons; or
- (b) include terms or conditions in any such contract that discriminate against a person or class of persons;

because of the race, creed, religion, colour, sex, marital status, nationality, ancestry or place of origin of that person or class of persons.

(2) For the purpose of subsection (1), discrimination on the basis of sex means only discrimination on the basis of pregnancy or pregnancy-related illnesses.

Discrimina-  
tion  
prohibited in  
employment

**16.**—(1) No employer shall refuse to employ or continue to employ or otherwise discriminate against any person or class of persons with respect to employment, or any term or condition of employment, because of his or their race, creed, religion, colour, sex, marital status, physical disability, age, nationality, ancestry or place of origin.

(2) No employment agency shall discriminate against any person or class of persons because of his or their race, creed, religion, colour, sex, marital status, physical disability, age, nationality, ancestry or place of origin in receiving, classifying, disposing of or otherwise acting upon applications for its service or in referring an applicant or applicants to an employer or anyone acting on an employer's behalf.

(3) No employer shall use, in the hiring or recruitment of persons for employment, an employment agency that discriminates against any person or class of persons seeking employment because

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of his or their race, creed, religion, colour, sex, marital status, physical disability, age, nationality, ancestry or place of origin.

(4) No provision of this section relating to age prohibits the operation of any term of a *bona fide* retirement, superannuation or pension plan, or any terms or conditions of any *bona fide* group or employee insurance plan, or of any *bona fide* scheme based upon seniority.

(5) Nothing in this section deprives a school or a board of education of the right to employ persons of a particular religion or religious creed where religious instruction forms or may form the whole or part of the instruction or training provided by the school or board of education pursuant to *The Education Act*.

(6) No provision of this section shall be construed so as to limit or enlarge upon the rights provided to female persons by *The Labour Standards Act*.

(7) The provisions of this section relating to any discrimination, limitation, specification or preference for a position or employment based on sex, physical disability or age do not apply where sex, physical ability or age is a reasonable occupational qualification and requirement for the position or employment.

Right to  
membership  
in profes-  
sional and  
trade associ-  
ations

**17.** Every person and every class of persons shall enjoy the right to membership, and all the benefits appertaining to membership, in any professional society or other occupational association without discrimination because of his or their race, creed, religion, colour, sex, marital status, physical disability, age, nationality, ancestry or place of origin.

Discrimina-  
tion by trade  
unions  
prohibited

**18.** No trade union shall exclude any person from full membership or expel, suspend or otherwise discriminate against any of its members, or discriminate against any person in regard to employment by any employer, because of the race, creed, religion, colour, sex, marital status, physical disability, age, nationality, ancestry or place of origin of that person or member.

Forms of  
application  
and adver-  
tisements for  
employment.  
etc., not to  
express dis-  
crimination

**19.** No person shall use or circulate any form of application for employment to which this Act applies or publish any advertisement in connection with such employment or prospective employment or make any written or oral inquiry in connection with such employment that:

(a) expresses, either directly or indirectly, a limitation, specification or preference indicating discrimination or an intention to discriminate on the basis of race, creed, religion, colour, sex, marital status, physical disability, age, nationality, ancestry or place of origin;

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(b) contains a question or request for particulars as to the race, creed, religion, colour, sex, marital status, physical disability, age, nationality, ancestry or place of origin of an applicant for employment.

### PART III.

#### ADMINISTRATION.

*Interpretation of member*

**20.** In this Part, "member" means a member of the commission.

*Commission*

**21.**—(1) The Saskatchewan Human Rights Commission is hereby continued.

(2) The persons appointed as members pursuant to *The Saskatchewan Human Rights Commission Act* continue as members until such time as new members are appointed pursuant to subsection (3).

(3) The commission shall consist of not less than three members appointed by the Lieutenant Governor in Council.

(4) The Lieutenant Governor in Council may designate one of the members as Chief Commissioner and one other member as Deputy Chief Commissioner.

(5) Subject to subsections (6) and (7), each member shall be appointed for a term of five years and shall hold office until his successor is appointed and may be reappointed for further terms of five years.

(6) Of the members first appointed after this section comes into force:

(a) one-third, as nearly as may be, shall be appointed for a term of three years;

(b) one-third, as nearly as may be, shall be appointed for a term of four years; and

(c) the remaining members shall be appointed for a term of five years;

and thereafter each member shall be appointed for a term of five years.

(7) The Lieutenant Governor in Council may appoint a person to fill any vacancy in the membership of the commission and that person shall be appointed to hold office for the remainder of the term of office of the member being replaced.

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(8) The Lieutenant Governor in Council may determine the remuneration for services and allowances for travelling and other expenses that shall be paid to members.

(9) A quorum of the commission is a majority of the members or three members, whichever is the lesser.

(10) A decision of a quorum of the commission is the decision of the commission and, in the event of an equality of votes on any matter, the Chief Commissioner, or, in the absence or inability to act of the Chief Commissioner, the Deputy Chief Commissioner, has a casting vote.

Director

**22.**—(1) The Lieutenant Governor in Council may appoint a person as the Director of Human Rights who shall be the chief executive officer of and secretary to the commission.

(2) The person appointed as the Director of Human Rights pursuant to *The Saskatchewan Human Rights Commission Act* continues as the Director of Human Rights until such time as an appointment is made pursuant to subsection (1).

(3) The Lieutenant Governor in Council may determine the remuneration for services and allowances for travelling and other expenses that shall be paid to the Director of Human Rights.

Appointment  
of staff and  
consultants  
and payment  
of witness  
fees

**23.**—(1) The commission may appoint or employ any officers, clerks or other employees that are required for the proper conduct of its business, and may determine their duties, powers, conditions of employment and remuneration.

(2) The commission may engage the services of any legal counsel, consultants and technical advisors that it considers necessary to assist it in carrying out its responsibilities and may pay any fees and expenses that it considers necessary.

(3) The commission may pay any witness fees and allowances that may be provided by the Lieutenant Governor in Council with respect to the attendance of witnesses before a board of inquiry established pursuant to this Act.

Superannua-  
tion

**24.** *The Public Service Superannuation Act* applies to the Director of Human Rights and to any persons appointed or employed by the commission under subsection 23(1).

Duties of  
commission

**25.** The commission shall:

(a) forward the principle that every person is free and equal in dignity and rights without regard to his race, creed, religion, colour, sex, marital status, physical disability, age, nationality, ancestry or place of origin;

- (b) promote an understanding and acceptance of, and compliance with, this Act;
- (c) develop and conduct educational programs designed to eliminate discriminatory practices related to the race, creed, religion, colour, sex, marital status, physical disability, age, nationality, ancestry or place of origin of any person or class of persons;
- (d) disseminate information and promote understanding of the legal rights of residents of the province and conduct educational programs in that respect;
- (e) further the principle of the equality of opportunities for persons, and equality in the exercise of the legal rights of persons, regardless of their status;
- (f) conduct and encourage research by persons and associations actively engaged in the field of promoting human rights;
- (g) forward the principle that cultural diversity is a basic human right and fundamental human value.

## Administration

**26.** The commission is responsible to the minister for the administration of this Act and any other Acts that are assigned by the Lieutenant Governor in Council to be administered by it.

## Complaints

**PART IV.****COMPLAINTS.**

**27.** — (1) Any person who has reasonable grounds for believing that any person has contravened a provision of this Act, or any other Act administered by the commission, may file with the commission a complaint in the form prescribed by the commission.

(2) Where a complaint is made by a person, other than the person who it is alleged was dealt with contrary to the provisions of this Act, or any other Act administered by the commission, the commission may refuse to act on the complaint unless the person alleged to be offended against consents.

(3) Where the commission has reasonable grounds for believing that any person has contravened a provision of this Act, or any other Act administered by the commission, in respect of a person or class of persons, the commission may initiate a complaint.

(4) Where, at any time, including during the course of any inquiry pursuant to this Act, the commission, or any person

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designated by the commission, is satisfied that a complaint is without merit, the commission or its designate may dismiss the complaint.

Inquiry into a  
complaint

**28.**—(1) Where a complaint is filed with, or initiated by, the commission, the commission, or any person designated by the commission, shall, subject to subsection 27(4), inquire into the complaint and endeavour to effect a settlement of the matter.

(2) Where a complaint is filed with the commission, the matter shall be considered settled for the purposes of this Act only if the commission is a party to the settlement and has agreed to its terms.

(3) Where a settlement is effected in accordance with subsection (2) or a decision or order is made under section 31 by a board of inquiry, the commission may, in its discretion, publicize in any manner the results of the settlement, decision or order.

(4) For the purposes of an inquiry under subsection (1), the commission, or a person designated by the commission, has access to and may enter upon and view any premises involved in the complaint, other than premises that are an occupied place of dwelling, at all reasonable times and at any time when the premises are open for business or when employees are engaged in their work.

(5) Where a judge of the Provincial Court of Saskatchewan is satisfied by information upon oath that there are reasonable grounds for believing that access to an occupied place of dwelling is required for the purposes of an inquiry under subsection (1), the judge may issue a warrant authorizing the commission, or a person designated by the commission, to enter and view that place of dwelling, and every such warrant shall be executed between sunrise and sunset unless the judge otherwise directs.

(6) The commission, or a person designated by the commission, may, at all reasonable times, for the purposes of an inquiry under subsection (1):

(a) demand the production of and inspect all or any of the books, documents, correspondence or records of the person whose conduct is the subject of the complaint;

(b) require production of and examine employment applications, payrolls, records, documents, writings and papers or copies thereof in the possession of any person; and

(c) obtain information or take extracts from or make copies of any items mentioned in clauses (a) and (b);

and, where the commission or its designate has so demanded or required the production of any items mentioned in clauses (a) and (b), the person upon whom the demand or request has been made shall comply with the demand or request.

(7) No person shall hinder, obstruct, resist, molest or interfere with the commission or any person designated by the commission, or attempt to hinder, obstruct, resist, molest or interfere with the commission or its designate, in the investigation of a complaint under this Act or any other Act administered by the commission.

(8) The commission, or any person designated by the commission, may, where any person has refused or failed to comply with a demand, requirement or request under subsection (6), upon application *ex parte*, request a judge of the Court of Queen's Bench to grant an order requiring the person whose conduct is the subject of the complaint or any person who it appears has possession of any items described in subsection (6) to immediately produce those items to the commission or its designate, and the judge may make any other order that he considers necessary to enforce the provisions of subsection (6).

**Board of inquiry**

29.—(1) Where the commission, or a person conducting an inquiry on behalf of the commission, is unable to effect a settlement of the matter complained of, the commission shall report to the minister and, in its discretion, may direct a formal inquiry into the complaint to hear and decide the matter or, in the absence of a direction by the commission, the minister may direct such a formal inquiry.

(2) A board of inquiry shall consist of one or more persons appointed by the minister to hear and decide the complaint.

(3) Immediately after the appointment of a board of inquiry, the minister shall communicate the names of the members of the board to:

(a) the commission; and

(b) the parties mentioned in clauses 30(1)(b), (c) and (d);

and thereupon it shall be conclusively presumed that the board was appointed in accordance with this Act.

(4) The members of a board of inquiry appointed under this section shall receive any remuneration for their services and allowances for travelling and other expenses that the Lieutenant Governor in Council may determine.

**Parties to proceeding**

30.—(1) The parties to a proceeding before a board of inquiry with respect to any complaint are:

(a) the commission, which shall have the carriage of the complaint;

(b) the person named in the complaint as the complainant;

(c) any person named in the complaint who is alleged to have been dealt with contrary to the provisions of this Act;

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- (d) any person named in the complaint who is alleged to have contravened this Act; and
- (e) any other person specified by the board, upon any notice that the board may determine and after such person has been given an opportunity to be heard against his joinder as a party.
- (2) A true copy of the complaint shall be annexed to the notice of the hearing that is given to any party other than the commission.

Procedure on  
inquiry

**31.** — (1) Subject to any guidelines for formal inquiries that may be established by the commission and to subsections (2) and (3), a board of inquiry may determine its own procedure and may receive and accept any evidence and information on oath, affidavit or otherwise that in its discretion it considers fit and proper, whether admissible as evidence in a court of law or not, and the board of inquiry and each member thereof has all the powers conferred upon commissioners by sections 3 and 4 of *The Public Inquiries Act*.

(2) The oral evidence taken before a board of inquiry shall be recorded.

(3) Without restricting the generality of subsection (1), a board of inquiry shall, on a formal inquiry, be entitled to receive and accept evidence led for the purpose of establishing a pattern or practice of resistance to or disregard or denial of any of the rights secured by this Act, and the board of inquiry shall be entitled to place any reliance that it considers fit and proper on such evidence and on any pattern or practice disclosed thereby in arriving at its decision.

(4) Counsel for the commission is entitled to participate in any formal inquiry in the same manner as counsel representing any party thereto, including the right to call, examine and cross-examine witnesses and to address the board of inquiry.

(5) The board of inquiry shall inquire into the matters complained of and give full opportunity to all parties to present evidence and make representations, through counsel or otherwise.

(6) Where, at the conclusion of an inquiry, the board of inquiry finds that the complaint to which the inquiry relates is not substantiated, it shall dismiss the complaint.

(7) Where, at the conclusion of an inquiry, the board of inquiry finds that the complaint to which the inquiry relates is substantiated on a balance of probabilities, the board may, subject to subsections (9) and (10), order any person who has contravened any provision of this Act, or any other Act administered by the commission, to do any act or thing that in the opinion of the board constitutes full compliance with that provision and to rectify any injury caused to

any person and to make compensation therefor, including, without restricting the generality of the foregoing, an order:

- (a) requiring that person to cease contravening that provision and, in consultation with the commission on the general purposes thereof, to take measures, including adoption of a program mentioned in section 47, to prevent the same or similar contravention occurring in the future;
- (b) requiring that person to make available to any person injured by that contravention, on the first reasonable occasion, any rights, opportunities or privileges that, in the opinion of the board of inquiry, are being or were being denied the person so injured and including, but without restricting the generality of this clause, reinstatement in employment;
- (c) requiring that person to compensate any person injured by that contravention for any or all of the wages and other benefits of which the person so injured was deprived and any expenses incurred by the person so injured as a result of the contravention;
- (d) requiring that person to make any compensation that the board of inquiry may consider proper, to any person injured by that contravention, for any or all additional costs of obtaining alternative goods, services, facilities or accommodation and any expenses incurred by the person so injured as a result of the contravention.

(8) Where a board of inquiry finds that:

- (a) a person has wilfully and recklessly contravened or is wilfully and recklessly contravening any provision of this Act or any other Act administered by the commission; or
- (b) the person injured by a contravention of any provision of this Act or any other Act administered by the commission has suffered in respect of feeling or self-respect as a result of the contravention;

the board of inquiry may, in addition to any other order it may make under subsection (7), order the person who has contravened or is contravening that provision to pay any compensation to the person injured by that contravention that the board of inquiry may determine, to a maximum of \$5,000.

(9) Where an inquiry is based on a complaint regarding discrimination on the basis of physical disability and the board of inquiry finds that the complaint is substantiated but that the premises or facilities of the person found to be engaging or to have engaged in the discrimination impede physical access thereto by, or lack proper amenities for, persons suffering from the physical

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disability that was the subject of the inquiry, the board of inquiry shall, by order, so indicate and shall include in its order any recommendations that it considers appropriate, but, where the person found to be engaging in or to have engaged in the discrimination establishes that the cost or business inconvenience that would be occasioned in the provision of such amenities or physical access would constitute, in the opinion of the board, an undue hardship, then the board of inquiry may not make an order under subsection (7).

(10) No order made under subsection (7) shall contain a term:

- (a) requiring the removal of an individual from a position if that individual accepted employment in that position in good faith; or
- (b) requiring the expulsion of an occupant from any housing accommodation if the occupant attained that housing accommodation in good faith.

(11) Where there are more than two members of a board of inquiry, a decision of the majority of the members of the board is the decision of the board, but, in the absence of a decision of the majority, the decision of the chairperson is valid and binding.

(12) No member of a board of inquiry hearing a complaint shall have taken part in any investigation or consideration of the complaint prior to the hearing or shall communicate directly or indirectly in relation to the complaint with any person or his representative except upon notice to all parties and opportunity for all parties to participate, but the board may seek legal advice independent of the parties and in that case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

## Appeals

**32.** —(1) Any party to a proceeding before a board of inquiry may appeal on a question of law from the decision or order of the board to a judge of the Court of Queen's Bench by serving a notice of motion, in accordance with The Queen's Bench Rules, within thirty days after the decision or order of the board of inquiry, on:

- (a) the board of inquiry;
- (b) the commission; and
- (c) the other parties in the proceedings before the board of inquiry.

(2) Where a notice of appeal is served under this section, the board of inquiry shall immediately file, in the office of the local registrar of the Court of Queen's Bench, the record of the proceedings before it in which the decision or order appealed from was made, which, together with a transcript of the oral evidence taken

before the board, if it is not part of the record of the board, shall constitute the record in the appeal.

(3) The minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

(4) Where an appeal is taken under this section, the judge shall determine any question of law relating to the appeal and may affirm or reverse the decision or order of the board of inquiry or remit the matter back to the board of inquiry for amendment of its decision or order.

(5) The decision of the Court of Queen's Bench may be appealed to the Court of Appeal.

*Order to  
become judge  
ment*

**33.**—(1) Any order made under section 31 by a board of inquiry shall, on filing of a certified copy thereof in the office of the local registrar of the Court of Queen's Bench at the judicial centre nearest to the place where the formal inquiry was held, be entered as a judgment of the Court of Queen's Bench and may be enforced as such.

(2) No certified copy of an order mentioned in subsection (1) shall be accepted for filing by the local registrar unless he has satisfied himself that thirty days has elapsed since the day on which the order was made and that no notice of appeal has been filed.

(3) The local registrar may accept, as proof that no notice of appeal has been filed, an affidavit that no notice of appeal against the order has been served upon the commission or person filing the order within the thirty-day appeal period.

(4) An application to enforce an order of the board of inquiry may be made to the court by and in the name of any one or more of the parties to the proceedings, and, upon the hearing of that application, the court is bound by the findings of the board of inquiry and shall make any order or orders that may be necessary to cause every party with respect to which the application is made to comply with the order of the board of inquiry.

*Non-liability  
for bona fide  
acts*

**34.** Neither the minister, the commission, a member of the commission, the Director of Human Rights, a person designated under this Act by the commission to inquire into a complaint nor a person appointed to sit on a board of inquiry constituted under this Act is liable for any loss or damage suffered by any person by reason of any thing done or omitted to be done in good faith pursuant to or in the exercise or supposed exercise of the powers conferred by this Act.

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## PART V.

## REMEDIES AND ENFORCEMENT.

Offences and  
penalties

**35.**—(1) Every person who contravenes or fails to comply with an order made under section 31, 32 or 38 is guilty of an offence and liable on summary conviction to the penalties provided in subsection (3).

(2) Every person who deprives, abridges or otherwise restricts or attempts to deprive, abridge or otherwise restrict any person or class of persons in the enjoyment of a right under this Act, or any other Act administered by the commission, or who contravenes any provision of any such Act for which no other penalty is imposed, is guilty of an offence and liable on summary conviction to the penalties provided in subsection (3).

(3) Any person who is convicted of an offence mentioned in subsection (1) or (2) and who is:

(a) an individual is liable to a fine of not more than \$500 in the case of a first offence or to a fine of not more than \$2,000 in the case of a subsequent offence;

(b) a person other than an individual is liable to a fine of not more than \$2,000 in the case of a first offence or to a fine of not more than \$3,000 in the case of a subsequent offence.

(4) The penalties provided by this section may be enforced upon the information of the Director of Human Rights or of any person alleging on behalf of himself or of any class of persons that a right that he or any class of persons or a member of any such class of persons is entitled to enjoy under this Act or any other Act administered by the commission has been denied, abridged or restricted.

Prosecution  
of trade  
union,  
occupational  
association or  
employers  
organization

**36.**—(1) A prosecution for an offence under this Act may be instituted against a trade union, occupational association or employers' organization in the name of the trade union, occupational association or employers' organization.

(2) For the purpose of this Act, a trade union, occupational association or an employers' organization is deemed to be a legal entity and any act or thing done or omitted to be done by an officer or agent of a trade union, occupational association or an employers' organization who is acting within the scope of his authority on behalf of the trade union, occupational association or employers' organization is deemed to be an act or thing done or omitted to be done by the trade union, occupational association or employers' organization, as the case may be.

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Proceeding  
not invali-  
dated by  
technical  
irregularity  
Injunction

**37.** No proceeding under this Act shall be deemed to be invalid by reason of any defect in form or any technical irregularity.

**38. — (1)** Where a person has been convicted of an offence under this Act or any other Act administered by the commission, the commission may apply by way of notice of motion to a judge of the Court of Queen's Bench for an order enjoining that person from continuing or repeating the offence, and the judge may make any order that he considers fit.

(2) Any order made under subsection (1) may be enforced in the same manner as any other order or judgment of the Court of Queen's Bench.

(3) A person who deprives, abridges or otherwise restricts or attempts to deprive, abridge or otherwise restrict a person or class of persons in the enjoyment of a right under this Act or any other Act administered by the commission, or who has contravened any provision of any such Act, may be restrained by an injunction issued in an action in the Court of Queen's Bench brought by any person against the person responsible for such contravention, deprivation, abridgment or other restriction, or any attempt thereat.

(4) An appeal lies to the Court of Appeal from the order or decision of a judge made under subsection (3).

Onus of  
proof

**39. — (1)** Where, in a proceeding under this Act, it is established that the party complained against, directly or indirectly, by himself or by any other person on his behalf:

- (a) deprived or attempted to deprive a person or class of persons of the enjoyment;
- (b) abridged or attempted to abridge the enjoyment by a person or class of persons; or
- (c) otherwise restricted or attempted to otherwise restrict a person or class of persons in the enjoyment;

of any accommodation, services or facilities which are offered to the public or which are ordinarily available to the public, or to which the public is customarily admitted, or of the occupancy of any housing accommodation or commercial unit, the onus is on the party against whom the complaint is made or the accused, as the case may be, to prove on a balance of probabilities that the deprivation, abridgment, restriction or attempted deprivation, abridgment or restriction was not because of discrimination against that person or class of persons contrary to any provisions of this Act or any other Act administered by the commission.

(2) Where, in a proceeding under this Act, it is established that the party complained against, directly or indirectly, by himself or by

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any other person on his behalf, refused to employ or continue to employ or otherwise discriminated against any person or class of persons with respect to employment or any term, condition or privilege of employment, the onus is on the party against whom the complaint is made or the accused, as the case may be, to prove on a balance of probabilities that the refusal or discrimination was not because of discrimination against that person or class of persons contrary to any provision of this Act or any other Act administered by the commission.

Court may  
order com-  
pensation to  
and reinstate-  
ment of an  
employee

**40.** Where an employer is convicted for violation of section 16 or of having suspended, transferred, laid off or discharged an employee contrary to this Act, the convicting court may, in addition to any other penalty, order the employer to pay to the employee compensation for loss of employment in an amount not exceeding an amount that, in the opinion of the court, is equivalent to the wages, salary or remuneration that would have accrued to the employee up to the date of conviction but for the suspension, transfer, layoff or discharge, and may order the employer to reinstate the employee in his employ, at any date that, in the opinion of the court, is just and proper in the circumstances, in the position the employee would have held but for the suspension, transfer, lay-off or discharge.

No imprison-  
ment

**41.** Notwithstanding any other Act, no person shall be imprisoned for default of payment of a fine imposed pursuant to this Act.

Conviction  
entered as  
judgment

**42.** Where a fine imposed pursuant to a conviction for a contravention of subsection 35(1) or (2) is not paid within the time designated by the court, the commission may, by filing the conviction, enter as a judgment in the Court of Queen's Bench the amount ordered to be paid, and that amount is enforceable against the accused in the same manner as any other judgment in civil proceedings in that court.

## PART VI.

## GENERAL.

Act binds  
Crown

**43.** This Act binds the Crown.

Act takes  
precedence  
unless  
expressly  
excluded

**44.** Every law of Saskatchewan is inoperative to the extent that it authorizes or requires the doing of anything prohibited by this Act unless it falls within an exemption provided by this Act or unless it is expressly declared by an Act of the Legislature to operate notwithstanding this Act.

Discrimination  
for taking part in  
proceedings  
under this  
Act  
prohibited

**45.** No person shall:

- (a) refuse to employ or to continue to employ any person;
- (b) threaten to dismiss or to penalize in any other way any person with respect to his employment or any term, condition or privilege thereof;
- (c) discriminate against any person with respect to his employment or any term, condition or privilege thereof; or
- (d) intimidate, retaliate against, coerce or impose any pecuniary or other penalty, loss or other penalty, loss or disadvantage upon any person;

on the grounds that that person:

- (e) has made or may make a complaint under this Act;
- (f) has made or may make a disclosure concerning any matter complained of;
- (g) has testified or may testify in a proceeding under this Act; or
- (h) has participated or may participate in any other way in a proceeding under this Act.

Regulations

**46.** For the purpose of carrying out the provisions of this Act according to their intent, the Lieutenant Governor in Council or the commission, subject to the approval of the Lieutenant Governor in Council, may make regulations that are ancillary to this Act, and every regulation made under this section has the force of law and, without restricting the generality of the foregoing, the Lieutenant Governor in Council or the commission, subject to the approval of the Lieutenant Governor in Council, may make regulations:

- (a) defining any word or expression used in this Act but not defined in this Act;
- (b) exempting persons or classes of persons from the provisions of Part II subject to any terms and conditions that the Lieutenant Governor in Council or commission may specify;
- (c) prescribing procedures for the commencement and conduct of formal inquiries;
- (d) prescribing qualifications for guide dogs.

Commission  
may order  
or approve  
programs

**47. –(1)** On the application of any person or on its own initiative, the commission may approve or order any program to be undertaken by any person if the program is designed to prevent disadvantages that are likely to be suffered by, or to eliminate or reduce disadvantages that are suffered by, any group of individuals

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when those disadvantages would be or are based on or related to the race, creed, religion, colour, sex, marital status, physical disability, age, nationality, ancestry or place of origin of members of that group, by improving opportunities respecting services, facilities, accommodation, employment or education in relation to that group.

(2) At any time before or after approval to a program is given by the commission, or a program is ordered by the commission or a board of inquiry, the commission may:

- (a) make inquiries concerning the program;
- (b) vary the program;
- (c) impose conditions on the program; or
- (d) withdraw approval of the program as the commission thinks fit.

(3) Nothing done in accordance with a program approved pursuant to this section is a violation of the provisions of this Act.

## Exemptions

**48.**—(1) Where any person or class of persons is entitled to an exemption under any provision of this Act or any other Act administered by the commission or where the commission or the Director of Human Rights considers it necessary and advisable, the commission or the Director of Human Rights may, upon application from the person who is entitled to the exemption or who seeks the exemption, by order made in accordance with any terms, conditions or criteria prescribed in the regulations, exempt that person or class of persons from any or all of the provisions of this Act, other than Part I, or from any or all of the provisions of any other Act administered by the commission.

(2) Notwithstanding that an exemption order has been made under subsection (1), the commission may, on its own initiative or upon application from any person or class of persons, terminate the exemption order, but the person or class of persons in whose favour the exemption order was made shall receive thirty days' written notice that the exemption order may be terminated and shall be allowed to make representation to the commission.

(3) Notice under subsection (2) may be given personally, by registered mail addressed to the last known postal address of the persons in whose favour the exemption order was made, or by publishing that notice on three consecutive days in the daily newspaper published closest to the places of residence of those persons.

Annual  
report

**49.**—(1) The commission shall, in each fiscal year, in accordance with *The Tabling of Documents Act*, submit to the minister a report upon the administration of this Act and in particular upon:

- (a) the number, nature and disposition of inquiries into complaints directed to it under this Act;
  - (b) the number, nature and disposition of inquiries or investigations, public hearings and educational programs held under this Act;
  - (c) the number, nature and dispositions of formal inquiries made under the authority of this Act and the results of any appeal; and
  - (d) any other information the commission may consider necessary.
- (2) The minister shall, in accordance with *The Tabling of Documents Act*, lay before the Legislative Assembly each report received by him pursuant to subsection (1).

*Appropria-*  
*tion*

- 50.** Sums required for the purposes of this Act shall be paid out of moneys appropriated by the Legislature for the purpose.

#### REPEAL AND COMING INTO FORCE.

*Rev. Stat.*  
*c. B-3.1,*  
*Rev. Stat.*  
*c. F-2,*  
*Rev. Stat.*  
*c. F-3,*  
*Rev. Stat.*  
*c. S-9, and*  
*Rev. Stat.*  
*c. S-25*  
*repealed*

*Coming into*  
*force*

- 51.** *The Blind Persons' Rights Act, The Fair Accommodation Practices Act, The Fair Employment Practices Act, The Saskatchewan Bill of Rights Act and The Saskatchewan Human Rights Commission Act* are repealed.

- 52.** This Act or any of the provisions of this Act come into force on a day or days to be fixed by proclamation of the Lieutenant Governor.